IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 13 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JASHWANTKUMAR GOPALDAS PANCHAL - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR BM MANGUKIYA for Applicant(s) : 1,
MR.HL JANI APP for Respondent(s) : 1,
NOTICE UNSERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 25/04/2007

ORAL JUDGMENT

1. By way of the present revision application, the petitioner has called into question the order

dated 01.06.1998 of his conviction and sentence for the offence punishable under Section 498-A of the Indian Penal Code. That order sentencing the petitioner to one year of simple imprisonment and fine of Rs.3,000/- was carried in appeal and confirmed by the judgment and order dated 16.12.1998 of learned Additional City Sessions Judge, Ahmedabad in Criminal Appeal No.82 of 1998. After pendency of the petition for about eight years, it was stated on behalf of the petitioner that all disputes between the petitioner and the wife were amicably settled. Their marriage was dissolved by the deed of dissolution dated 18.09.2002. According to that deed of dissolution of marriage, of which a copy was placed on record, all the disputes between the parties were settled and the cases pending in the Courts were to be wound up.

2. Therefore, the original complainant and ex-wife of the petitioner was joined as party respondent No.2 in the present proceedings and

upon service of notice upon her, she has remained personally present in the Court. It was submitted by her with the assistance of learned A.P.P. Mr.H.L. Jani that her marriage with the petitioner was in fact dissolved in terms of the document dated 18.09.2002 and that she had no objection to the revision application being allowed or the applicant being granted benefit of the provisions of the Probation of Offenders Act, 1958. It was, however, also submitted by her that pursuant to the dissolution of her marriage, certain articles were to be exchanged among the parties and some of the articles of household use were still not delivered to her. She submitted that such miscellaneous articles or the value thereof may be paid to her. Responding to that, learned counsel Mr.B.M. Mangukiya stated, on instructions of the petitioner, who was present in the Court, that the petitioner has paid the sum of Rs.5,000/- to respondent No.2 and that amount was accepted by respondent No.2 in full and final settlement of all her claims arising

from the matrimonial relationship and the cases related thereto. Thus, respondent No.2 has consciously and willingly agreed to accept the amount and requested to release the petitioner on probation in terms of the agreement as aforesaid.

3. Learned A.P.P. submitted that the offence punishable under Section 498-A was not compoundable but, in view of the peculiar facts and circumstances of the case and particularly in view of the agreement between the contesting parties, the order of sentence could be suitably modified. Accordingly, without disturbing the conviction of the petitioner for the offence punishable under Section 498-A, the order of sentence is modified to the period of imprisonment already undergone by the petitioner and the amount of fine is not increased in view of the payment directly made by the petitioner to respondent No.2. Therefore, the order of sentence stands modified to the aforesaid extent and the petition stands allowed to that extent. Rule is

made absolute with no order as to costs. Bail bond submitted by the petitioner shall stand cancelled.

(D.H.WAGHELA, J.)

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